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INTRODUCTION

TO THE

OBSERVATIONS

MADE BY THE

JUDGES of the COURT of COMMON PLEAS

FOR THE

DISTRICT of QUEBEC,

UPON THE

ORAL AND WRITTEN TESTIMONY ADDUCED UPON THE

INVESTIGATION

INTO THE

PAST ADMINISTRATION OF JUSTICE.

ORDERED IN CONSEQUENCE OF AN

ADDRESS OF THE LEGISLATIVE COUNCIL.

L O N D O N :

PRINTED FOR J. F. AND C. RIVINGTON,

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P R E F A C E.

IN order to remove the impressions which the misrepresentations contained in a Pamphlet, intituled, "A State of the present Form of Government of the Province of Quebec," may have made upon the minds of men unacquainted with the state of it; although the dismissal of Mr. Monk from his office as Attorney-General is sufficient to shew the sense entertained by his Majesty's Ministers of his conduct; in justice to the Judges of Quebec, it is thought necessary to publish the Introduction to the Observations which those Judges made upon the oral and written testimony adduced in an Investigation, ordered in consequence of an Address of the Legislative Council, of the 27th of April, 1787, and of a Memorial of the Judges of the Court of Common Pleas, of the 1st of May, 1787, to his Excellency Lord Dorchester, the Governor-General.

It is hoped that the publication of the Introduction will at least suffice to engage men
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of candor and moderation to suspend their judgment upon the merits and proceedings of that Investigation, until such time as a Report shall be made by the Crown Law Officers, to whom the papers relative thereto, transmitted by his Excellency Lord Dorchester, in the fall of the year 1787, to his Majesty's Secretary of State, were referred.

The Editor observes, that there was an evident impropriety, to give it no harsher term, in publishing mutilated extracts from the Investigation, in order to serve political purposes, and to prejudice the public against the Judges of Quebec, at a time when their friends uncertain of meeting with approbation from them in publishing materials which are in their hands, (though they think the exculpation of the Judges from the charges brought against them would be the necessary consequence) restrain themselves even now to making public this Introduction and an Appendix, containing papers necessary to the understanding of it.



INTRODUCTION, &c.

HIS Honour the Chief Justice, Mr. Smith; having at the opening of the Commission at the Council Chamber on the 11th of June, related to a numerous audience a history of his conduct during the last Session of the Legislative Council, and the fate of an Ordinance which he had prepared to heal divisions and differences; (but which the Legislative Council had rejected, from a conviction, that the same, by perpetuating dissensions, and establishing different laws for the inhabitants of the same province, would have a very opposite effect) the Judges of the Common Pleas for

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the district of Quebec, previous to making observations upon the proceedings held subsequent to the 23d of June, in order to remove the prejudices which that narrative, so unseasonably made, may have excited in the minds of the public, and the better to enable Lord Dorchester, or others, to whom it may be submitted, to form an adequate opinion of the nature and motives of this investigation, think it incumbent on them to state, as concisely as possible, the events that have taken place in the province since the conquest of it, at least as far as they relate to the laws and administration of justice in it.

Though Canada was conquered by his Majesty's arms in the fall 1760, Administration in England did not interfere with the interior government of it till the year 1763. It remained during that period divided as formerly into three districts, under the separate command of military officers, who established in their respective districts military courts, under different forms indeed, but in which, according to the policy observed in wise nations towards a conquered people, the laws and usage of Canada were observed as the rule of decision.

His Majesty, with a view to encourage settlers from Europe and America to resort to
Canada,

Canada, and the other countries which had been ceded to Great Britain by the Treaty of Paris, by his Proclamation in October 1763, signified the Royal Pleasure, that the English form of government and English laws should be established in them, as soon as circumstances would permit.

General Murray's commission and instructions, as Civil Governor of Canada, in the year 1764, confirmed that intention. In conformity to that commission and those instructions, an ordinance of the Governor and Council was passed in September 1764, which introduced the English form of proceeding in the administration of justice, and preparatory to the introduction of the English laws, as soon as proper ordinances could be framed for the information of the people. Many considered, or affected to consider, that ordinance to be an introduction of the English law; a circumstance which gave great alarm to the people.

In order to quiet their minds, the Governor and Council, in November in the same year, passed an ordinance, enacting, that in actions relative to the tenure of lands and rights of inheritance, the laws and usages of Canada should be observed as the rule of decision, leaving to the Judges in all other causes the

power of deciding according to equity, conformable to the said ordinance of September. Governor Murray in the same year represented to his Majesty's Ministers, that the proclamation and his instructions were inapplicable to the circumstances of Canada, which, as being a country already peopled, and for a series of years governed by a fixed system of laws, differed essentially from the other ceded countries; and as by this time the Grand Jury of the first Quarter Sessions for the district of Quebec, had, amongst many improper presentments, made some of a very illiberal and persecuting spirit against the Catholics; the Governor made such representations as his duty required, to prevent the people of the province from being oppressed by the few old subjects, who had resorted to it for the purpose of trade and commerce.

Though the King's Ministers signified to the Governor an intire disapprobation of the conduct of the Grand Jury, they did not adopt any fixed system for the country till the year 1774, when having received full and ample information of the state of men and things in it, not only from the reports of Governor Carleton and the other principal officers of Government, but also from Mr. Morgan, a gentleman

gentleman of the profession of the law, who had been sent out to Canada for the purpose, they thought proper to lay the affairs of the province before Parliament.

The Act of the 14th of the King was passed in consequence, which by declaring the laws and usages of Canada to be the rule of decision in all causes thereafter to be instituted in the courts of civil jurisdiction, except inasmuch as they were altered by the Act itself, or should be altered by future ordinances of the Governor and Legislative Council, put an end to the uncertainty which had for many years subsisted, and which had on many occasions embarrassed the Judges, who nevertheless think themselves intitled to some share of merit, for having under these circumstances administered justice to the King's subjects, in a manner so as to have made the natives feel as little as possible the change which had taken place, and at the same time protected the interests of the old subjects, who had resorted to the province for the purpose of trade and commerce. For upon this occasion the Judges think fit to observe, that the clamour and calumny against the courts of justice did not commence till after the year 1775; a proof that it was the law and system of Government, established by that Act, which created the dis-

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contents amongst the old subjects, and not the misconduct or error of the Judges, for assuredly men at a time, when they had no fixed law for their guide, may be supposed to commit more errors than when they had a known and written law to direct them.

The act, however acceptable to the natives, and such of the old subjects who were superior to religious and national prejudices, was nevertheless disagreeable to the old subjects in general, who from the time of the establishment of civil government in the year 1764, had been, as Protestants, the sole Members of the Council, sole Judges, Justices of the Peace, &c.

As soon as the act was made known in the province in 1774, great clamour was raised against it, committees were named to draw up petitions for its repeal, and as at that time there were in the province many partizans of the other colonies which were prepared to revolt, great pains were taken to impress upon the minds of the lower class of Canadians an idea, that in May 1775, when the act was to be in force, they were to be made slaves and soldiers.

Upon the invasion of the province by the rebels in 1775, the greatest part of the Members

bers of the Committee openly joined them, and many of those who had been most clamorous against the act and foremost in signing petitions, left the town of Quebec, in November of the same year, in consequence of his Excellency General Carleton's proclamation. These men, in 1776, were allowed to return to the town, and were at first treated by the old subjects with the contempt they merited, for by far the greatest part of the old subjects had, by their laudable conduct, in the winter 1775 and 1776, during the blockade of the town of Quebec, shewn that though they might have been misled by these demagogues, their intentions were good, and that they were attached to their king and country.

As some of the persons who had left the town carried on an extensive commerce, and as they adhered firmly to one another, they by degrees were received amongst their fellow citizens, waiting only for a favorable opportunity to renew their clamour and discontent against the laws and constitution of the country. Many reasons concurred to restrain their designs during the war, but the Minutes of the Legislative Council will shew there were some Members who, by desire to innovate, kept alive without doors that prejudice which

the old subjects entertained against the laws and constitution of the country. The same Minutes will shew, that such of the Judges, who had seats in the Legislative Council, considered the Act of the 14th of his Majesty as the effect of that liberal and tolerating spirit which distinguishes an enlightened age and nation, and as fitly calculated to preserve the colony in dependance upon the crown of Great Britain.

In April 1783, the Governor of the province received the preliminaries of peace in a dispatch from Sir Guy Carleton at New York, and with them a letter from the Secretary of the Treasury, containing positive orders to exact payment of the outstanding debts due for bills of exchange, which in the year 1781, the Honourable John Cochrane, agent for the remitters of public money, had been authorized by the Governor, as commander in chief of the forces, to sell upon credit. Previous to the receipt of these orders, Mr. Cochrane had given to the commander in chief a list of the outstanding debts due on bills of 1781, amounting to 102,000*l.* and upwards, but upon the order of the Treasury being communicated to him, he not only refused to assist in the recovery of the debts due, or assign over
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the obligations or notes which he had taken, or ought to have taken, from the debtors, agreeable to the restrictions under which the authority to give credit had been given, but acquainted the commander in chief, that though he had given a list of debts due upon bills of 1781, which amounted only to 102,000l. yet there was a much greater sum due, for that in order to enable the merchants to go on, he had been obliged in the fall 1782 (notwithstanding the commander in chief had withdrawn his authority in August of that year) to sell his bills upon credit to a very great amount.

The commander in chief alarmed at the conduct of the remitter's agent, and still more at the intention of blending the credits given in 1781, under his Excellency's guaranty, with those given in 1782, consulted the law officers; the result was, that the Solicitor General, with the assistance of Mr. Cugnet, a French lawyer, secretary and translator to the Governor and Council, was instructed to commence an action against the Hon. John Cochrane, and agreeable to the laws and usages of Canada, he applied for and obtained from the Judges of the Common Pleas of Quebec, the Writ of *Saisie Arret* against the debtors (on the credits of 1781) as *Tiers Saisie* one against Shaw and

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Frazer,

Frazer, who by the list before mentioned were indebted in the sum of 71,467l. 3s. 10d. and another against several debtors (upon a second information) to the amount of 30,579l. 16s. 3d.

The debtors who had flattered themselves, that as Mr. Cochrane would not assist in the recovery of the debts in conformity to the orders of the Treasury, Government could have no recourse against them, were much enraged against the laws and usages of the country, which afforded the Government the means of bringing back to the channel of the national treasury, the very large sums which had been diverted by Mr. Cochrane to the mercantile speculations of the house of Shaw and Frazer, and of others. They did not neglect to calumniate the Judges on the occasion, though in granting the Writ of *Saisie Arret*, they only obeyed the law which extended to Government the same benefit in recovering debts as is granted to the subject.

The revolution which the approaching peace made in commercial speculation, affected the merchants in general, who not being able to make remittances as usual in bills of exchange upon credit on Messrs. Harley and Drummond, united with Mr. Cochrane's debtors, in clamour against the Laws and Courts of Justice to
which

which they attributed, however falsely, their misfortunes.

Mr. Cochrane, who had many of the merchants attached to him by the strongest of all ties, their interest, set on foot a petition in the fall of the year 1783, complaining of the laws, the constitution of the country, and of the administration of justice. It was signed not only by his debtors and those concerned with them, (who perhaps had read it and knew the meaning of it) but also by many of the lowest class of people, who thought only of the honor held out to them, of setting their names to a paper that was to be presented to his Majesty or his Ministers. The Judges, who never saw that petition, have been assured, that it was in general of such a nature and tendency, as engaged the Secretary of State to signify to the Governor of the province in 1784, a very strong disapprobation of it.

Perhaps for this very reason it was thought necessary in November 1784 to set about another petition. The Judges have been informed, that a petition in opposition to this last, was at the same time transmitted to his Majesty by a very numerous and respectable body of his Canadian subjects.

In the year 1785, an ordinance of the Governor and Legislative Council adopted the trial by Jury in commercial matters, and in actions of personal wrongs to be compensated in damages; but the laws and usages of Canada received no further alterations than those which had been made in 1777.

The Judges now arrive at that period, where they have to state events which have given more immediate occasion to this investigation, and as it is of the utmost consequence to them that those events should appear in their true light, they will proceed to state them with that freedom which becomes men who have, some of them for *twenty-three years*, been honoured with the important task of administering justice to their fellow subjects, and with that spirit of independance, which has ever influenced them in the discharge of their duty.

After the 1st of May 1775, when the act of the 14th of the King took place, men could scarcely differ in opinion with regard to the law, that was to regulate the decision of the Courts of Justice in civil causes. The mere reading of the act was sufficient for that purpose; and the Judges uniformly decided accordingly. If any doubts could subsist, they must have arisen from the ignorance *real or affected,*

affected, of the English lawyers and their clients, of the extent of the alterations which the ordinances of the Governor and Legislative Council had from time to time made in the laws and usages of Canada, alterations which the Judges will point out in their observations upon the oral and written testimony produced at this investigation.

A cause wherein the Hon. William Grant, and Mr. Robert Grant, of London, were Appellants, and Mr. Alexander Gray Appellee, was ready for hearing in the Court of Appeals in October 1786, when the Hon. William Smith, the Chief Justice, arrived. This cause had for some time been before the Court of Common Pleas at Quebec. Mr. Monk, the attorney for the defendants in the inferior courts, having filed a plea of exceptions to Mr. Gray's right of action as curator, and having appealed from an interlocutory judgment * given thereon, establishing Mr. Gray's right of Action, as having been appointed curator conformable to the law of the country. The Court of Appeals confirmed that interlocutory judgment †, and remanded the record to the inferior court, to be proceeded upon to

* Vide Appendix, N° IV.

† Ibid. N° V.

final judgment. The Chief Justice who sat as President of the Court of Appeals, at the hearing of the appeal from the final judgment of the Inferior Court *, (which on all hands was agreed to be right with regard to the sum for which that judgment was given) upon reversing it on the 29th of December, advanced a doctrine altogether new in the province, namely, *that the act of the 14th of the King, had not established the laws and usages of Canada, in actions where neither of the parties were Canadians, but that the English law was to be the rule of decision, in causes wherein British born subjects were parties.* And that therefore the appellee should have obtained letters of administration agreeable to the English form. The judgment of reversal † insinuates indeed, that the appellee was not duly appointed a curator, according to the antient law of the country, but in as much as the appellee had by a solemn judgment of the Court of Appeals already cited, been sustained a legal curator, it is evident that the reversal was founded upon the new doctrine, that British born subjects were not precluded by the act of the 14th of the King, from the operation of the English

* Vide Appendix, N° VI.

† Ibid. N° VII, 1

law. The circumstance of the parties being natural born subjects of Great Britain, is expressed in the judgment of reversal, and was the only means that could have engaged the Court of Appeals, the Chief Justice presiding, to contradict their former judgment. If this doctrine had been law, the colony would have returned to the same, or greater confusion, than that which had prevailed before the act took place; and the Courts of Justice would have been involved in the same or greater uncertainty, than that from which that act had rescued them.

The Court of Common Pleas opened on the 6th of January after the Christmas vacation, when the Judges thought it incumbent on them, for the tranquillity of the people, and in duty to themselves, who had for the space of eleven years, administered justice to the King's subjects, without distinction, agreeable to the laws and usages of Canada, to report their opinion upon the law, and declare their reasons upon which that opinion was founded publicly in Court, whereof they presented a copy on the day following to his Excellency Lord Dorchester.

The Sessions of the Legislative Council commenced the 15th of January. The Chief
Justice

Justice moved several ordinances, of which he laid draughts before the Council, and in one of them the doctrine advanced on the 29th of December, was brought forward to receive the sanction of the Legislature.

On the 1st of February, his Excellency Lord Dorchester communicated to the Legislative Council, a petition which he had received from the Canadians residing in or near Quebec *, the contents of which, in a message by the Lieutenant Governor, his Excellency recommended to the Legislative Council, to keep in view in their deliberations upon the objects mentioned in it, as will appear by the minute and address of the Legislative Council made in consequence of it.

About the beginning of March, the draught of the ordinance proposed by the Chief Justice, was, contrary to custom, and as the Judges believe, without the consent or approbation of his Excellency the Governor, printed and circulated through the province, in which were preambles to two clauses in the following words, viz. “ And it being indispensably requisite to the safety of property in every
“ suit at law, to exclude the Legislative Au-

* Vide Appendix, N° VIII. and IX.

“ thority

"thority from being united with the exercise
 "of the judicial powers of the said Courts
 "of Common Pleas, lest the estates and
 "rights of the people should be subject to
 "the erroneous or arbitrary opinions of the
 "Judges."

"And whereas great inquietudes have arisen
 "in the colony within four years past, re-
 "specting certain processes against estates and
 "effects, seizing and arresting the same, and
 "divesting the properties thereof, without
 "previous trial and judgment of law between
 "the parties, which proceedings past in
 "France under the name of *saisie arret*, and
 "*saisie exécutoire*, though they are there exe-
 "cuted under special guards, would be very mis-
 "chievous if practised against the poor inha-
 "bitants of this province; and especially as
 "the Sheriffs, and the subordinate executive
 "Agents, are not yet under any bonds with
 "sureties for their demeanor; and it is more
 "expedient in so infant a country, to leave
 "creditors in general to that caution prudence
 "requires against negligent confidences, than
 "to introduce the rapid measures of antient
 "and populous nations, against complicated
 "frauds and bankruptcies."

These preambles the Judges have inserted at length, considering them as very derogatory, and having a tendency to render the King's subjects dissatisfied with the past administration of justice.

On the 12th of February, his Excellency Lord Dorchester laid before the Legislative Council, a memorial of the Canadians residing at or near Montreal *. On the 22d of March, the ordinance proposed by the Chief Justice was rejected by the Legislative Council, and a Committee of the whole Council soon after went into the consideration of an ordinance brought in by Mr. de St. Ours. Some of the old subjects having petitioned the Legislative Council, to be heard by Counsel against this ordinance, and acceded to, James Monk, Esq; his Majesty's Attorney General, with the permission of his Excellency the Governor, appeared in their behalf for that purpose; and on the 14th of April, made the speech which has been canvassed in the proceedings had previous to the 23d of June.

The Chief Justice, in his place in the Legislative Council, on the said 14th of April,

* Vide Appendix, N° X.

hearing the speech alluded to, and instead of expressing his disapprobation of the conduct of the Attorney General, thought fit on the 18th, to make the following motion, viz.

“ That the Council resolve, that the high
 “ charges brought by his Majesty’s Attorney
 “ General, as Council for the Merchants in
 “ the hearing on their petition at our bar last
 “ Saturday, relating to the conduct of the
 “ Judges in the administration of public justice for several years past, make it our indispensable duty, as faithful Counsellors to
 “ the Crown, to inquire into the proofs referred to, and to lay the result of the examination before the noble Lord at the head
 “ of the government. That it will be fair
 “ and just to give the Judges of the Common
 “ Pleas, who are so deeply affected by those
 “ accusations, an opportunity to be heard before any report is made to his Lordship,
 “ and that the Council take order for producing the records and witnesses for such
 “ examinations, with all convenient speed,
 “ and that the progress upon the Bill in the
 “ Committee, against which the Merchants
 “ were heard, be in the interim suspended.”

Seconded by Sir John Johnson.

With this motion, and the following memorial, which they had the honor of presenting to his Excellency Lord Dorchester, on the 2d of September last, the Judges conclude this Introduction to their Observations, on the Oral and Written Testimony produced in the course of this investigation, ordered in consequence of the address of the Legislative Council.

Quebec,
October 15, 1787.

ADAM MABANE,
(Signed,) THOS. DUNN,
P. PANET.

TO THE RIGHT HONOURABLE

GUY, LORD DORCHESTER, &c. &c. &c.

The Memorial of the Judges of his Majesty's
Court of Common Pleas for the District of
Quebec,

Most respectfully sheweth,

THAT two of your Memorialists, in the absence of Mr. Judge Dunn, and in conjunction with Mr. Judge Frazer, of Montreal, had the honour to present to your Lordship a Memorial and Complaint against James Monk, Esq. his Majesty's Attorney-General, for having on the 14th of April last, in a speech before the Legislative Council, delivered in presence of a crowded audience, in the most wanton, unconstitutional, defamatory manner, added to a variety of other misconduct, attacked their reputation and character as Judges, by an accusation of partiality in the distribution of justice, on which Memorial and Complaint they prayed your Lordship to do them justice.

That in an Address of the Legislative Council, dated the 27th of last April, your Lord-

ship's attention was in like manner called to this extraordinary proceeding on the part of the Attorney-General of the 14th, and the papers which accompanied that Address went to explain the grounds upon which the Legislative Council thought it incumbent on them to submit the matter to your Lordship's consideration.

These papers at first view justify and prove the most material facts set forth in the Complaint of your Memorialists, and they cannot help remarking, that although the facts alleged by the Attorney-General had been as true as they are undoubtedly false, he is not justifiable, upon any principle, for having so long remained silent in the office he holds under the Crown, knowing such conduct as he states in the King's Judges, and to bring forward his accusation so late upon a private pleading, and in a manner tending to disturb the government, by insulting them to their faces in legislature, and consequently lowering, nay destroying, the public confidence in, and respect for, the tribunals of justice, on which they have the honour to be placed by Royal Authority, and from which they can only be degraded by a legal and constitutional accusation and trial.

That

That your Lordship was pleased on the 18th of May to lay these papers and proceedings before the Council of State, and particularly the the Judges' Memorial and Complaint, upon which an Order of Reference was made by your Lordship, with the advice of Council, to the Honourable William Smith, Chief Justice, to cause the investigation desired to be made with all convenient speed, and to make his report thereupon to your Lordship, and first upon the question of partiality; all which your Memorialists apprehend was then clearly understood to relate particularly to the Complaint of your Memorialists, first entered upon the Order of Reference as a point of the utmost importance, and well deserving that priority in the investigation, which they apprehend it was your Lordship's intention to give it; and the more especially, as your Memorialists then intimated, and your Lordship's feelings for them under so cruel an aspersion would naturally suggest, that it would be painful again to sit as Judges upon the Bench, whilst under the stain of so foul an accusation, and the author of it holding and enjoying the high and confidential office of Attorney-General under the same Crown.

That

That on the first notice from the Chief Justice of his intention to proceed upon the business of the Reference, your Memorialists signified to him by letter their understanding of his trust, by expressing, " their entertaining no doubt that he had then, or would immediately give communication of the Judges' Memorial to Mr. Monk, that he might answer thereto, and be prepared to meet them upon that point in the outset of the investigation;" and the answer of the Chief Justice, dated the 26th of May, left as little room to doubt that he acquiesced in their opinion and request. That, notwithstanding, on the 11th of June, on the opening the business, the Attorney-General not only refused to avow or disavow the charge of partiality by him made upon the 14th of April, and complained of in the Memorial, as he had before done, when called upon by the Legislative Council by the mouth of their President, but continued to insult the Judges then present by a defamatory speech, at the same time demanding time to bring forward his proofs till the 21st of June, which was granted, they apprehended, as a period at which he would, without fail, at once justify his own conduct, and make good his charges against them, or be
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considered as concluded with regard to that previous period of the investigation.

Your Memorialists then moved for and obtained a day for the purpose of proving the facts set forth in their Memorial, a step which the Attorney-General's silence obliged them to take. On the 14th of June the Memorial was fully proved by many respectable witnesses, except that part of it which relates to the accusation of Inconsistency, equally falsely and improperly made against the Honourable the Lords of his Majesty's Privy Council in England; the interrogatory to which point was over-ruled by the Chief Justice, upon the strenuous objection of the Attorney-General, grounded on the just apprehension, that the clear proof that could be adduced of the calumny would work its effects upon your Lordship's mind, in judging of the conduct of the first crown law officer in the province, and the intention and tendency of that conduct in a general point of view, as well as with regard to your Memorialists upon their private complaint.

That on the 20th of June your Memorialists moved the Chief Justice, as a primary object, to call upon and confine the Attorney-General to the proof of his specific charges against them,

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and to the bringing forward the records of all or any causes, in which, he pretended, there was partiality, or grace and favour, as he termed it, in the proceedings or final determination, in place of examining persons of different descriptions to their opinions upon causes decided against them, (a proceeding which they saw tolerated with surprize) but without effect, although it frequently fell from the Chief Justice, that the proof of such charges would supercede the necessity of further investigation with respect to them, with these emphatic expressions, "that if the hearts of the King's Judges were unsound, it mattered not to enquire whether their heads were so;" and having put upon the Minutes their written evidence, the Judges prayed for and obtained a day to draw their conclusions upon the import of that proof, and Mr. Attorney-General's refusal to answer their Memorial, or to avow and support the specific charges, so clearly established to have been made by him on the 14th of April.

That at every meeting, from the 21st of June up to the 23d, whilst the Judges continued to give their personal attendance upon the investigation, the Attorney-General indulged himself in constant, unchecked defamation and abuse against them, stating repeatedly,
that

that the principles of morality were rooted up by the judgments of their courts, and such like expressions, calculated to prejudice the public, and inflame the minds of the hearers, many of whom were strangers, officers of the army and navy, enough to have raised the passions and excited the more immediate vengeance of men less upon their guard, and less confident in that justice which they expect, and will undoubtedly receive from your Lordship's determination upon such wanton and unjustifiable conduct. On this account the Judges (as expressed by them to the Chief Justice, in a letter dated the 27th of June) retired, and requested Messrs. Williams and Gray to attend for them in the further stages of the investigation, so far as their interest might be therein concerned, in hopes, at the same time, that the Chief Justice would report to your Lordship the proceedings upon the Minutes, agreeable to their request.

They learned, however, with regret from your Lordship, at the close of the last Term in July, that no report had been made; and from these Gentlemen since, that so far from reporting upon the partiality, the Chief Justice publicly declared, that he never would report thereon until it was proved, and continued in-

dulging the Attorney-General in delays from time to time, to bring forward such proofs as he thought proper to the general subject of investigation into the laws and past administration of justice, stating, that he could not separate the two objects of investigation, that the Order of Reference did not require him so to do, and that he would not report until the whole was finished, both here and at Montreal.

In pursuance of this declaration, upon a short memorial presented by Messrs. Monk and Ogden, on the 23d of August, requesting an adjournment to Montreal, to examine witnesses there with regard to the Court of Common Pleas at Quebec, but without naming any particular witness or witnesses, or any fact or facts intended to be proved by them, and without the common solemnity of an oath to the necessity of such adjournment, but upon bare suggestion, and contrary to the remonstrances of your Memorialists, in their Letter of the 16th and 26th of August to the Chief Justice, he was pleased to adjourn the business to Montreal, and to refuse reporting the proceedings, as requested by your Memorialists, and again specially moved for by their counsel at the last meeting; a proceeding that will again subject your Memorialists to sit as Judges, under an accusation of partiality,

at the ensuing term, they humbly conceive contrary to the honor and dignity of government, which requires a speedy and efficacious termination of so high a charge, either by their removal from the seat of justice if culpable, or by your Lordship's justice, upon the defamer who shrinks from the proof of his foul accusation.

That your Memorialists feeling themselves as injured men, again humbly intreat your Lordship to do them justice, by taking up and perusing the proofs of their Memorial, and the facts therein set forth, which they are constrained in justice to themselves, to lay before your Lordship, in a copy of the proceedings upon the investigation up to the 23d of June, with the correspondence referred to in their Memorial, and the last motion made on their behalf, so that your Lordship may judge of their situation, and apply such remedy as your wisdom may dictate.

Your Memorialists are far from flying from, or wishing to avoid every further or other investigation, which your Lordship has ordered, or may order, in consequence of the address of the Legislative Council into the past administration of justice : wrapped up in a conscious integrity, and a sense of having honestly and
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faithfully, to the best of their abilities, discharged their duty as Judges under all the changes of laws and constitution of government, which this country has undergone since they had the honor to be appointed Judges. They feel themselves intitled to your Lordship's protection, and having a full and firm reliance upon your justice and impartiality, as well as the sense of your regard for the honor of the King's government, and the support of every member of it, under your administration, especially those well known to you as your Memorialists, they look up to your Lordship, on this occasion, for a determination of their case, from which they have no doubt of obtaining complete satisfaction and justice.

And your Memorialists shall ever pray.

September 2, 1787.

(Signed,)

ADAM MABANE.
THOMAS DUNN,
P. PANET.

C O N-

A P P E N D I X,

N° I.

Address of the Legislative Council to His Excellency Lord Dorchester, of the 27th April, 1787.

N° II.

Memorial of the Judges of the Courts of Common Pleas to his Excellency Lord Dorchester, 1st May, 1787.

N° III.

Extract of the Minutes of the Council of the 18th May, 1787.

N° IV.

Interlocutory Judgment of the Court of Common Pleas, Gray versus Grant, 24th July, 1784.

N° V.

Judgment of the Court of Appeals, 6th July, 1785.

N° VI.

Final Judgment of the Court of Common Pleas, Gray versus Grant, 24th December, 1785.

N° VII.

N° VII.

Judgment of the Court of Appeals of the 29th December, 1786.

N° VIII.

Petitions of the Canadians at Quebec, of the 19th January, 1787.

N° IX.

Lord Dorchester's Message of the 1st February, 1787, and Address of the Legislative Council thereon.

N° X.

Petition of the Canadians at Montreal, of the 3d February, 1787.

A P P E N D I X.

N^o I.

The Address of his Majesty's Legislative Council.

May it please your Lordship,

The extracts from the minutes of our Journals, which accompany this address, will shew to your Excellency the reasons and grounds which have engaged the Legislative Council, humbly to request that your Lordship will take such steps, as your Lordship, in your wisdom, shall judge best calculated to promote the ends of public justice, and to vindicate the honor of government, which are both so essentially interested in an enquiry into the charges and accusations, so publicly brought before the Legislative Council, against the past administration of justice, in the Courts of Common Pleas for the two districts, as well as against the Judges of the same; and that of inconsistency in some of the judgments of the Court of Appeals.

Council Chamber, April 27, 1787.

(Signed)

HENRY HOPE, President.

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To

N^o II.

To His Excellency the Right Hon. Guy, Lord Dorchester,
 Captain General and Governor in Chief of the Colonies
 of Quebec, Nova Scotia, and New Brunswick, &c.
 &c. &c.

The Memorial of the undersigned Judges of His
 Majesty's Courts of Common Pleas for the Dis-
 tricts of Quebec and Montreal.

Sheweth,

That on the 14th of April last, James Monk, his Ma-
 jesty's Attorney General for this province, on being heard
 as council at the bar of the honourable the Legislative
 Council, upon a petition of some of the citizens of Quebec
 and others, relative to an ordinance for regulating the pro-
 ceedings of the Courts of Justice, then before a Committee
 of the whole council, did, in a speech of considerable
 length, delivered in presence of a crowded audience, enter
 into a general field of declamation against the laws and ad-
 ministration of justice for this province, charging not only
 the courts of Common Pleas for both districts, but the pro-
 vincial court of appeals, and even the Lords of his Ma-
 jesty's Council with inconsistency in their judicial deci-
 sions; and also charging the Judges of the Court of Com-
 mon Pleas, for the district of Quebec, with partiality, in
 having through grace and favor granted to John Frazer,
 of London, merchant, what they afterwards denied to
 William Goodall, of the house of Watson and Rasseigh,
 in a case of a similar nature; which last imputation is of
 the most serious nature and consequence to your Memo-
 rialists affected thereby, and to government.

That

That when the Attorney General was called upon to avow and support what he had advanced in this behalf, and specially required so to do by the Legislative Council, as well as generally by an honourable member, Mr. Caldwell, to bring forward any accusation whatever of partiality, other than that stated in the questions put to him by the Council; he the said Attorney General did, in place of answering directly to so plain a question, evade the same under pretext of consulting his clients, as may appear by his answer of record, and having taken time, full six days to prepare himself to satisfy the council in this respect, in place of coming forward to support so foul an accusation, did, at the moment of the last adjournment of the council to wait on your Lordship at the close of the session, present an answer for himself and his clients equally evasive, for all which your Memorialists beg leave to refer your Lordship to the Journals of Council, and to the last answer abovementioned.

Your Memorialists therefore humbly pray your Lordship to do them justice, by vindicating the dignity of government, thus wantonly insulted in their persons by the King's Attorney General, and thereby rescue their characters and reputation from an attack of partiality so maliciously and publicly brought against them and unsupported, which may also, upon the slightest inquiry, be proved to be altogether without foundation, and which is altogether unconnected with any farther enquiry or investigation, your Lordship may think proper to make into the charges of inconsistency, in the judicial decisions of the Courts of Justice, alledged to arise from the inadequateness and uncertainty of the laws.

Quebec, 1st May, 1787.

(Signed)

A. MABANE, J. C. P. for Quebec,
J. FRASER,
PRE. PANET, J. C. P.

N° III.

Extract from the Minutes of Council, 18th May, 1787.

Read a Memorial of Mr. Judge Mabane, Mr. Judge Frazer, and Mr. Judge Panet, to his Excellency the Governor, dated the 1st instant, stating among other things, that an accusation of partiality was made before the Legislative Council, on the 14th April last, against the Judges of the Court of Common Pleas at Quebec, by James Monk, Esq; his Majesty's Attorney General, and "praying his Lordship to do them justice, by vindicating the dignity of government thus wantonly insulted in their persons by the King's Attorney General, and thereby rescue their character and reputation from an attack of partiality so maliciously and publicly brought against them, and unsupported, which may also upon the slightest enquiry be proved to be altogether without foundation, and which is altogether unconnected with any further enquiry or investigation his Lordship may think proper to make into the charges of inconsistency in the judicial decisions of the Courts of Justice, alledged to arise from the inadequateness and uncertainty of the laws." Here Mr. Judge Mabane withdrew; then, read the address of the Legislative Council to his Lordship, dated 27th of April, "requesting his Lordship, upon the reasons and grounds therein referred to, to take such steps, as in his wisdom, he should judge best calculated to promote the ends of public justice, and to vindicate the honour of government, which are both so essentially interested in an enquiry into the charges and accusations so publicly brought before the Legislative Council, against the past administration of justice in the Court of

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“ Common Pleas for the two districts, as well as against
 “ the Judges of the same, and that of inconsistency in
 “ some of the judgments of the Court of Appeals.” Read
 also the extract from the Journals of the Legislative Council,
 and the papers A and B, which accompanied the Address.
 Whereupon it is ordered by his Excellency, with the ad-
 vice of the Council, that it be committed to the Chief
 Justice to cause the investigation desired to be made, by
 hearing the parties publicly in the Council Chamber, and
 that the report be made to his Lordship with all convenient
 speed, and first upon the question of Partiality: And the
 Chief Justice is authorized to employ one or more clerks in
 the service aforesaid, with free access to records and papers.

(A true Copy.)

(Signed)

J. WILLIAMS.

Nº IV.

DISTRICT OF QUEBEC.

COURT OF COMMON PLEAS.

Saturday, 24th July, 1784.

ALEXANDER GRAY, Esq.

Versus

Hon. WILLIAM GRANT, Esq.

THE Court having heard Mr. Monk and Mr. Berthelot
 for defendant, and the plaintiff in person, and considered
 the plea of exceptions filed by defendant, with the plaintiff's
 answer thereto, and defendant's reply, dismisses the excep-
 tions

tions filed with regard to the curatorship, and orders defendant to plead to the merits in four days, and the further hearing and argument be fixed for Saturday next.

By the Court,

DAVID LYND, C. C. P.

N^o V.

In the COURT of APPEALS.

Wednesday, 6th July, 1785.

The Hon. WILLIAM GRANT and ROBERT GRANT, Esqrs.
Appellants, and
ALEXANDER GRAY, Esq. &c. Respondent.

THE Court having examined as well the record and proceedings as the several interlocutory judgments given in this cause, and having fully understood the reasons of appeal and answers thereto, and heard the allegations of the said parties by counsel, it is considered, that the said several interlocutory judgments, particularly those of the 24th and 31st of July, 1784, be confirmed, and the proceedings annexed to the Writ of Appeal sent back to the court of original jurisdiction, in order to be proceeded on to final judgment, with costs.

(A true Copy.)

JA. SHEPHERD, Clerk.

Nº VI.

DISTRICT OF QUEBEC.

COURT OF COMMON PLEAS.

Saturday, 24th December, 1785.

ALEXANDER GRAY, Esq. Advocate, Curator to the vacant
Succession of ALEXANDER GRAY, his Father, deceased,

Versus

Hon. WILLIAM GRANT, Defendant, and ROB. GRANT,
of London, Esq. Intervening.

THE Court having considered the pleadings of the parties, the depositions of Thomas Ainslie, Esq. and Charles Stuart, Advocate, witnesses produced in this cause; also the different papers produced as well by the parties as by the said Thomas Ainslie and Charles Stewart, to wit, the copy of a Power of Attorney from the late Alexander Gray, of Edinburgh, Writer to the Signet, to William Grant and Charles Stuart, bearing date the fourteenth and sixteenth of June, one thousand seven hundred and eighty four, attested by James Monro, Notary Publick; an Indenture, bearing date the sixteenth of November, one thousand seven hundred and seventy-five, made between the aforesaid Alexander Gray, deceased, as administrator of all the effects, goods, rights, and credits of the deceased John Gray, late of Quebec, merchant, of the one part, William Grant, the present defendant, of the other part, and Robert and William Grant, of the city of London, merchants, and co-partners, and the said Robert Grant, in his own private name, of the other part; an Arbitration Bond, signed by the Hon.

William Grant, the defendant, and by Charles Stewart, attorney by procuration to Alexander Gray, the father of the now plaintiff, dated the twenty-fourth of October, one thousand seven hundred and eighty-five; the Award made by Anthony Vialars, Hugh Finlay, Robert Lister, John Lees, junior, and James Shepherd, dated the thirtieth of June, one thousand seven hundred and seventy-eight; two Letters wrote by defendant to Thomas Ainslie, dated the twentieth and twenty-second of September, one thousand seven hundred and eighty-three; three Sketches of Accounts between the defendant and the succession of the late Alexander Gray, which were produced by the aforesaid Thomas Ainslie; the Deed of Curatorship granted by the Prerogative Court at Quebec the twenty-second of June, one thousand seven hundred and eighty-four, by which the present defendant was elected and chosen curator to the vacant estate of his father Alexander Gray, deceased; a Power of Attorney from the aforesaid Robert Grant to James Grant, of Quebec, bearing date the seventeenth of May, one thousand seven hundred and eighty-four; Letters of Administration from the Right Reverend Father in God the Archbishop of Canterbury to the said Robert Grant, to administer to the effects, &c. of the late Alexander Gray, dated the nineteenth of November, one thousand seven hundred and eighty-three; also Letters of Administration from the said Archbishop of Canterbury to the said Robert Grant, to administer to the estate of the late John Gray, dated the fourteenth of December, one thousand seven hundred and eighty-four; a Paper Writing signed by James Monk, advocate for the said Robert Grant, intervening party, and likewise signed by Alexander Gray, the plaintiff, intituled, State of Payments, &c. Having carefully examined the whole, and duly deliberated thereon, is of opinion, that the said Alexander Gray, by virtue of the Deed of Curatorship to him granted by the Prerogative Court

Court at Quebec, agreeable to the law, custom, and usage of this country, which is in force by virtue of an Act of Parliament, intituled, "An Act for the more effectual Provision of the Government of the Province of Quebec, in North America," made and passed in the fourteenth year of the reign of his present Majesty, is duly authorized to manage, govern, and administer to the effects, &c. of and belonging to the estate of the late Alexander Gray; and likewise to the effects of the late John Gray; the said Alexander Gray having survived the said John Gray, according to the three hundred and eighteenth Article of the custom followed in this province, *Le Mort Saisit le Vif*. Having further considered, that from the death of the aforesaid Alexander Gray, which was on the twelfth of January, in the year one thousand seven hundred and eighty, until the time when the plaintiff obtained Letters of Curatorship to the vacant estate of the said Alexander Gray, the defendant could not pay the debt in question with safety to himself, not knowing any person in the province sufficiently authorized to give a discharge for the same. And lastly finding that the defendant, in the year one thousand seven hundred and eighty-three, took several steps to acquit and discharge the aforesaid debt; for these considerations the Court condemns the defendant, the Hon. William Grant, to pay to plaintiff the sum of eight hundred and ninety-one pounds, fifteen shillings currency of this province for the full balance and perfect payment, as well of the principal sum as the interest thereon, mentioned in the aforesaid Award of the thirtieth of June, one thousand seven hundred and seventy-eight, according to the account annexed to the present judgment, with interest on the principal sum of seven hundred and seven pounds, nine shillings and two-pence, from the first of July, one thousand seven hundred and eighty-four, until the whole be paid with costs of suit. And it is further ordered, That the aforesaid

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sum;

sum, with the interest thereon, be immediately after the receipt thereof lodged by the plaintiff with David Lynd, Esq. Clerk of this Court, in order to be distributed among the creditors of the late Alexander Gray, who may have a just claim thereto, according to law. And in order that the said creditors may ascertain their rights, and claim what may be due to them, it is ordered, That at the instance of the plaintiff an advertisement in the French and English language be forthwith inserted in the Quebec Gazette, for three weeks successively, notifying to all those who pretend to have any demand on the estate of the late John Gray, of Quebec, merchant, or the late Alexander Gray, Esq. Writer to the Signet at Edinburgh, that they produce and lodge with the aforesaid David Lynd, Clerk of this Court, their respective accounts, duly authenticated and attested, on or before the first of April next, with their petition or requetes in collocation, on failure whereof they will be precluded, and this Court will proceed to a distribution of the aforesaid money, ordered to be deposited as aforesaid; dismisses the said Robert Grant from his intervention, saving to him his recourse against the plaintiff in his capacity of Curator to ascertain his debt, and condemns him to pay the costs occasioned by his intervention.

(A true Copy.)

Quebec, 30th Sept. 1789.

DAVID LYND, C. C. P.

N^o VII.

In the COURT of APPEALS.

Friday, 29th Dec. 1786.

WILLIAM GRANT and ROBERT GRANT, Plaintiffs,

Against

ALEXANDER GRAY, Defendant.

On APPEAL in ERROR.

THE parties having been fully heard, and it not appearing that the plaintiff in the action brought in the Common Pleas is one of his Majesty's Canadian subjects, and this Court being of opinion if he was, that he has not proceeded to intitle himself to bring the said action under the antient laws and customs of this province; and it further appearing that the said plaintiff below, and all the parties, are natural-born subjects of Great-Britain, and no letters of administration having been sued out of the Prerogative Court of this province upon the estate or estates intestate, for which the said action was brought; it is therefore ordered by the consideration of this Court, that Alexander Gray, the plaintiff below, take nothing by his writ, plaint, and judgment in the Common Pleas, but that the said judgment, and every part thereof, be wholly reversed and annulled; and it is also adjudged by the consideration of this Court, that the appellants do not recover any costs from the said Alexander Gray, the respondent, nor either appellant from the other, that the parties may be severally left to bear their own costs.

(A true Copy.)

JA. SHEPHERD, Clerk.

N° VIII.

L'Humble Supplique des Citoyens Canadiens de Quebec.

Qu'il plaise à votre Excellence,

Nous citoyens Canadiens de la ville Quebec prenons la liberté de faire à votre excellence nos très humbles representations sur un objet qui interesse essentiellement notre tranquillité et le bonheur de cette province.

Une juste et précise exécution de nos loix civiles est notre vœu, et les alterations qu'elles ont souffertes, et qu'elles pourront encore souffrir font nos craintes et nos peines. Ces Loix ont établi les titres de nos biens et de nos familles au nombres de cent vingt mille ames, qui forment les dix neuf vingtiemes de la population actuelle. La Capitulation, on nous maintenant expressement dans l'entière et paisible propriété et possession de nos biens nobles et innobles, meubles et immeubles, nous a necessairement conservé ces Loix civiles qui les definissent; et l'un, des articles de l'Acte de Parlement de la 14^e Année du regne de la très Gracieuse Majesté, considerant avec justice ce pays comme conquis, nous les a si clairement accordées qu'il ne doit avoir dans les cours de justice aucune doute qu'il ait sous-entendu d'y introduire, en outre, d'autres loix, qui n'ont jamais été publiées en cette province, puisque leurs plus celebres commentateurs déclarent qu'elles n'ont aucune force en pays conquis et deja habités. Nous ne pouvons même imaginer que l'acte du parlement qui nous accorde nos propriétés et ces loix ait entendu autoriser des alterations reiterees, qui detruiroient leurs principes fondamentaux ou meler avec ces loix, d'autres loix, soit generales, soit particulieres qui ont des principes differens,

et qui sont peu convenables à ce pays, dans la vue de favoriser une certaine classe d'individus seulement ; parceque du mélange de diverses loix, en un même pays, il ne peut resulter qu'une confusion, la desunion entre les sujets, et des incertitudes ruineuses aux familles.

L'Alteration de nos loix civiles, coûtumes et usages mérite la plus grande moderation, et les precautions les plus importantes. Ces loix sont simples claires, connues, et justes, même pour le commerce, puisqu'elles favorisent beaucoup le prompt recouvrement des dettes, la justice, et l'égalité entre les créanciers, Elles consistent en ordonnances, que les Rois n'ont voulu faire, lorsqu'elles touchaient aux propriétés et aux droits, des citoyens, que sur les résolutions des Etats ; c'est à dire les trois ordres du peuple. Nos coûtumes n'ont aussi été rédigées par Ecrit que de cette Maniere, et leur rédaction n'a été faite que sur les résolutions des mêmes états. C'est pourquoi les lettres patentes de la dernière rédaction les déclarent, et garantissent expressement, comme loi et édit perpetuelles et irrevocables ; et que l'ancien gouvernement n'a pendant plusieurs siècles fait que peu d'ordonnances, dont aucune ne donne atteinte à ces loix. Telles sont les loix, coutumes et usages pour nos droits réels et personnels, dont les anciens et notables, même les nouveaux Canadiens qui sont en cette province, sans distinction de naissance, ont d'accord entre eux, demandé l'exacte exécution à sa Majesté, en la suppliant de remedier à l'Etat actuel de cette province.

Nous supplions donc, tres respectueusement, votre seigneur, de vouloir ne donner aucune sanction à ce qui tendrait à détruire les principes fondamentaux des loix, coutumes, et usages qui reglent nos propriétés, ou qui voudraient introduire d'autres Loix, attendu que toutes innovations en loix ne devraient se faire qu'avec les mêmes precautions qui les ont établis.

L'ancienne

L'ancienne et constante protection que votre Excellence a bien voulu accorder à nos droits les plus précieux, nous assure de celle qui doublera notre reconnaissance, et nos vœux pour votre conservation et prospérité.

Quebec, le 19th Janvier, 1787.

N. B. The foregoing petition was signed by 345 persons.

N° IX.

Extract from the Minutes of Council.

Thursday, 1st February, 1787.

His Honour the Lieutenant Governor signified to the Council, that his Excellency the Right Hon. Lord Dorchester, had put into his hands a petition signed by a great number of respectable subjects of his Majesty, resident at and near Quebec. That his Lordship had directed his honour to inform the Council, that upon receiving the petition, he was on the point of returning it to the Gentlemen who had presented it, not seeing to what purpose it tended. That his Lordship remained for some time undecided, whether he should not return the petition; but, having received the report of the Committee of Merchants at Quebec, and that of those at Montreal, accompanying the report of the Committee of Council named by his Lordship on the 6th of November last, to take into consideration and report upon commercial matters, his Lordship perceived the reason of the alarm taken by the petitioners. That his Lordship had sent the petition, and the report of the

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the Committee of Commerce, together with all the papers that were therewith delivered to him, for the information of the Council. That his Lordship recommends to the Legislative Council, when considering such of those papers as they should judge fit to make the subject of their deliberations, in forming regulations, that they would keep in view the objects contained in the said petition; to the end, that the minds of the people may be quieted, and that peace and tranquillity may, by their prudence, be promoted.

Extract from the Minutes of Council, 3d February, 1787.

May it please your Excellency,

We, the Members of the Legislative Council for the affairs of the province of Quebec, in council assembled, return your Excellency our humble and hearty thanks for the full and ample communications that you have thought fit to give to this Council, of all the several reports which have been made to your Excellency; and particularly of the petition lately presented to your Lordship on the part of a number of his Majesty's respectable and faithful subjects of the town of Quebec; as well as your Excellency's gracious message thereof.

We beg leave to assure your Excellency, that this Council will not fail, in our deliberations upon such part of the various matters annexed to the reports, as may appear to us to be objects of public good, within our sphere and powers, to meet your Excellency's wishes, in the fullest manner, by a due attention, on our part, to avoid any thing that may give the alarm again, to that class of his Majesty's subjects, described in the petition, whose minds cannot but be restored to perfect tranquillity, by the measures

tures that your Excellency has thus, in your wisdom and justice, taken on the occasion.

Council Chamber,
1st Feb. 1787.

HENRY HOPE, President.

N° X.

A Son Excellence le très Honorable GUY LORD DORCHESTER, Capitaine General et Gouverneur en Chef des Colonies de Québec, Nouvelle Ecosse et Nouveau Brunswick, et leurs dépendances; Vice-Amiral d'Iceles; General, et Commandant en Chef de toutes les troupes de sa Majesté dans les dites Colonies, et dans l'Isle de Terre-neuve, &c. &c. &c.

Qu'il plaise à votre Excellence,

Dans un tems, où l'arrivée de votre Seigneurie sembloit ne devoir faire penser aux anciens et nouveaux sujets de sa Majesté qu'à se féliciter réciproquement de cet heureux événement: dans un tems, où nous pensions qu'il y auroit un accord mutuel à se réjouir des douceurs d'un Gouvernement heureux: dans un tems, enfin, où nous croions la tranquillité rétablie, les anciens sujets revenus d'un système qu'une opposition générale des loiaux sujets Canadiens devoit leurs faire regarder comme inadmissible, dans un pais où les opposans, par droit, nombre, fortunes, et propriétés doivent emporter la balance; c'est avec la surprise, la plus grande, que nous voyons les nouvelles demandes des anciens sujets de sa Majesté qui ne tendent à rien moins qu'à
boulverser

boulverser les loix fondamentales des nouveaux, à les anéantir, et par là, leurs propriétés. Cette commotion seroit alarmante, si les loyaux sujets Canadiens de sa Majesté n'étoient persuadés que elle a les vues les plus favorables pour son peuple Canadien; que lors qu'elle verra, par l'Entremise de votre Seigneurie, au pied de son auguste trône, l'opposition generale et formelle de ses loyaux sujets Canadiens aux demandes injustes et outrées de ses anciens sujets; que quand notre très gracieux Souverain sera instruit que tout un peuple, qui n'a jamais cessé de lui être fidel, se reunit pour reclamer sa justice et son equité, pour lui conserver ses loix municipales, ses loix, sur lesquelles sont fondés ses biens, fortunes, et propriétés; ses loix, que le droit des gens assure, que la capitulation a promise, qu'une proclamation a solennellement ratifiée, et que le Bill émané de son august Parlement dans la quatorzieme année de son regne bienfaisant, a maintenu, et nous garantit; que quand sa très digne Majesté daignera promener ses regards sur cette étendue de pays qu'habite un peuple qui désire le lui conserver, et qu'ensuite elle comparera cette quantité de personnes qui lui sont si fidèlement attachées, les biens et les propriétés de tant d'individus, dont on veut renverser les principes fondamentaux, avec le nombre, si petit, des anciens sujets, et de si peu de propriétés; ne devons nous pas esperer, que notre très gracieux Souverain, bien loin d'acquiescer, à des demandes aussi injustes, affermira encore et rendra plus stables les loix constitutionnelles et municipales de ses fidels et loyaux sujets Canadiens.

Nous supplions votre Excellence de vouloir bien jeter un regard sur les deux adresses envoyées ci-devant pour être mises au pied du trône auguste de sa Majesté, dont nous avons l'honneur de vous transmettre les copies; de les considerer comme le vœu unanime et invariable de la nation: Et que par vôtre illustre protection notre très gracieux Souverain veuille bien y avoir référence. Nous

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esperons

esperons que votre Excellence n'aura aucun égard à ces demandes de Chambre d'Assemblée ; de Chartre d'Incorporation, dont le but est à peu près le même ; d'un enregistrement des contrats ; de Gréniers et marchés publics pour les Grains, &c. d'un commerce avec Vermont ; de ces innovations pour les douaires hypothèques, &c. Ces points étant assés clairement expliqués dans notre loi : le tout ne tendant qu'à la sapper, et nous paroissant contraire et préjudiciable à l'avantage de la province. Que tous autres articles de ces demandes qui ne regardent pas le commerce seul, méritent un désaveu de notre part, comme opposés au bien, aux intérêts, aux droits, et aux privilèges les plus sacrés des divers états qui composent cette Province, et à qui sans daigner les consulter, on veut imposer des loix dont eux-seuls sentiront tout le poid.

Nous osons nous flatter que votre Seigneurie voudra bien faire valoir notre opposition par tout où besoin sera. Qu'elle voudra bien l'appuyer de son credit ; ses connoissances dans la province des sujets qui l'habitent la rendent plus capable que tout autre de faire, avec cette intégrité et cette impartialité, qui en tout tems, ont caractérisé votre Excellence, un rapport fidèle et exact des vrais sentimens de notre nation ; et de pointer cette distinction que l'on doit mettre entre la futilité des demandes, et les droits réels des opposans. Et c'est avec la confiance la plus sincère que nous nous attendons encore aux marques de cette protection bienfaisante, si souvent reiterée à notre égard ; qui fait, que sous un gouvernement chéri, le plus Auguste des Rois est adoré, et ne peut qu'augmenter notre amour en se faisant représenter parmi ses loyaux sujets Canadiens par votre Seigneurie, pour la prospérité de laquelle nous ne cesserons de prier.

Montréal, le 3me Fevrier 1787.

N. B. The foregoing Address was signed by 315 persons.



